

1 H.901

2 Introduced by Committee on Health Care

3 Date:

4 Subject: Health; health information technology; Department of Vermont

5 Health Access; Vermont Information Technology Leaders; Green

6 Mountain Care Board; health information exchange

7 Statement of purpose of bill as introduced: This bill proposes to require the  
8 Department of Vermont Health Access and the Vermont Information  
9 Technology Leaders, Inc. (VITL) to submit to the General Assembly a work  
10 plan, a contingency plan, and bimonthly progress reports regarding their efforts  
11 to implement systemic improvements to health information technology and  
12 health information exchange in Vermont. It would also require them to  
13 provide testimony on their progress to the Health Reform Oversight  
14 Committee. It would shift responsibility for Vermont's Health Information  
15 Technology Plan from the Agency of Administration to the Department of  
16 Vermont Health Access and require approval by the Green Mountain Care  
17 Board. The bill would extend a portion of the health care claims tax that is  
18 dedicated to health information technology through July 1, 2019. In the  
19 absence of contrary legislative action during the 2019 legislative session, it  
20 would also sunset VITL's statutory authority on July 1, 2019, including

1 VITL's role as operator of the State's health information exchange network  
2 and its eligibility to use funds from the Health IT-Fund.

3 An act relating to health information technology and health information  
4 exchange

5 It is hereby enacted by the General Assembly of the State of Vermont:

6 Sec. 1. HEALTH INFORMATION TECHNOLOGY; HEALTH  
7 INFORMATION EXCHANGE; PROGRESS REPORTS

8 (a) On or before May 1, 2018, the Department of Vermont Health Access  
9 and the Vermont Information Technology Leaders, Inc. (VITL) shall submit to  
10 the House Committees on Appropriations, on Health Care, and on Ways and  
11 Means; the Senate Committees on Appropriations, on Health and Welfare, and  
12 on Finance; and the Green Mountain Care Board a work plan detailing the  
13 process by which the Department and VITL shall implement the  
14 recommendations of the health information technology report submitted to the  
15 General Assembly in accordance with 2017 Acts and Resolves No. 73, Sec. 15  
16 (Act 73 report). The work plan shall be informed by stakeholder and consumer  
17 input and by technology options and opportunities. The Plan shall identify  
18 potential steps for addressing issues of data ownership and issues of  
19 intellectual property. It shall also set forth both a timeline of tasks to be

1 completed and a list of clear objectives to assist the General Assembly in  
2 evaluating the success or failure of the parties' work.

3 (b) On or before September 1, 2018, the Department of Vermont Health  
4 Access and VITL shall submit to the House Committees on Appropriations, on  
5 Health Care, and on Ways and Means; the Senate Committees on  
6 Appropriations, on Health and Welfare, and on Finance; the Health Reform  
7 Oversight Committee; and the Green Mountain Care Board a contingency plan  
8 for health information technology to be used if the Department and VITL are  
9 unable to implement the recommendations from the Act 73 report. The  
10 contingency plan shall contain the following:

11 (1) a description of the health information exchange services that would  
12 need to be replaced;

13 (2) a process for determining the manner in which the services would be  
14 replaced and the mechanism for acquiring the replacement services, such as a  
15 request for proposals;

16 (3) an assessment of the State's ownership interests in hardware  
17 systems, software systems, applications, data, and other physical and  
18 intellectual property that would need to be licensed to a future operator of  
19 Vermont's health information exchange;

20 (4) a plan for transitioning operations from VITL to the new operator or  
21 operators; and

1           (5) the impacts of the change on health care providers, health care  
2           consumers, State government, and Vermont's health care reform initiatives.

3           (c) On or before October 15, 2018, the Department of Vermont Health  
4           Access shall submit to the House Committees on Appropriations, on Health  
5           Care, and on Ways and Means; the Senate Committees on Appropriations, on  
6           Health and Welfare, and on Finance; the Health Reform Oversight Committee;  
7           and the Green Mountain Care Board the results of an evaluation, which shall  
8           be conducted by an independent entity with expertise in health information  
9           technology, of the work plan, the contingency plan, and the Department's and  
10           VITL's progress toward implementing the recommendations in the Act 73  
11           report.

12           (d) On or before May 1, July 1, September 1, and November 1, 2018 and  
13           January 1, 2019, the Department of Vermont Health Access and VITL shall  
14           provide to the House Committees on Appropriations, on Health Care, and on  
15           Ways and Means; the Senate Committees on Appropriations, on Health and  
16           Welfare, and on Finance; the Health Reform Oversight Committee; and the  
17           Green Mountain Care Board written updates on their progress toward  
18           implementing the recommendations contained in the Act 73 report.

19           (e) In addition to the written updates required by subsection (d) of this  
20           section, the Department of Vermont Health Access and VITL shall provide  
21           testimony on their progress toward implementing the recommendations

1 contained in the Act 73 report at a meeting of the Health Reform Oversight  
2 Committee at least once every two months or more frequently if so requested  
3 by the Committee. The testimony at the Committee's first meeting after the  
4 General Assembly has adjourned in 2018 shall also include information  
5 regarding the work plan required by subsection (a) of this section, and the  
6 testimony at the Committee's first meeting after September 1, 2018 shall also  
7 include information regarding the contingency plan required by subsection (b)  
8 of this section.

9 Sec. 2. 18 V.S.A. § 9351 is amended to read:

10 § 9351. HEALTH INFORMATION TECHNOLOGY PLAN

11 (a)(1) ~~The Secretary of Administration or designee~~ Department of Vermont  
12 Health Access, in consultation with the Department's Health Information  
13 Exchange Steering Committee, shall be responsible for the overall  
14 coordination of Vermont's statewide Health Information Technology Plan.  
15 The Plan shall be revised annually and updated comprehensively every five  
16 years to provide a strategic vision for clinical health information technology.

17 (2) The Department shall submit the proposed Plan to the Green  
18 Mountain Care Board annually on or before November 1. The Green  
19 Mountain Care Board shall approve, reject, or request modifications to the Plan  
20 within 45 days following its submission; if the Board has taken no action after  
21 45 days, the Plan shall be deemed to have been approved.



1 the proposed updates by the Green Mountain Care Board, may enter into a  
2 contract or grant agreement with ~~VITL or other~~ appropriate entities to update  
3 some or all of the Plan. Upon approval ~~by the Secretary of the updated Plan by~~  
4 the Green Mountain Care Board, the Department of Vermont Health Access  
5 shall distribute the updated Plan ~~shall be distributed~~ to the Secretary of  
6 Administration; the Commissioner of Information and Innovation; the  
7 Commissioner of Financial Regulation; ~~the Commissioner of Vermont Health~~  
8 ~~Access;~~ the Secretary of Human Services; the Commissioner of Health; the  
9 Commissioner of Mental Health; the Commissioner of Disabilities, Aging, and  
10 Independent Living; the Senate Committee on Health and Welfare; the House  
11 Committee on Health Care; affected parties; and interested stakeholders.  
12 Unless major modifications are required, the ~~Secretary~~ Department may  
13 present updated information about the Plan to the ~~Green Mountain Care Board~~  
14 ~~and~~ legislative committees of jurisdiction in lieu of creating a written report.

15 \* \* \*

16 Sec. 3. 18 V.S.A. § 9352 is amended to read:

17 § 9352. VERMONT INFORMATION TECHNOLOGY LEADERS

18 \* \* \*

19 (c)(1) Health information exchange operation. VITL shall be designated in  
20 the Health Information Technology Plan approved by the Green Mountain  
21 Care Board pursuant to section 9351 of this title to operate the exclusive

1 statewide health information exchange network for this State. ~~After the~~ The  
2 Plan shall determine the manner in which Vermont's health information  
3 exchange network shall be managed. The Green Mountain Care Board  
4 ~~approves~~ shall have the authority to approve VITL's ~~core activities and~~ budget  
5 pursuant to chapter 220 of this title, ~~the Secretary of Administration or~~  
6 ~~designee shall enter into procurement grant agreements with VITL pursuant to~~  
7 ~~8 V.S.A. § 4089k.~~ Nothing in this chapter shall impede local community  
8 providers from the exchange of electronic medical data.

9 (2) Notwithstanding any provision of 3 V.S.A. § 2222 or 2283b to the  
10 contrary, upon request of the Secretary of Administration, the Department of  
11 Information and Innovation shall review VITL's technology for security,  
12 privacy, and interoperability with State government information technology,  
13 consistent with the State's health information technology plan required by  
14 section 9351 of this title.

15 (d) Privacy. The standards and protocols implemented by VITL shall be  
16 consistent with those adopted by the statewide Health Information Technology  
17 Plan pursuant to subsection 9351(e) of this title.

18 (e) Report. ~~No later than~~ On or before January 15 of each year, VITL shall  
19 file a report with the Green Mountain Care Board; the Secretary of  
20 Administration; the Commissioner of Information and Innovation; the  
21 Commissioner of Financial Regulation; the Commissioner of Vermont Health

1 Access; the Secretary of Human Services; the Commissioner of Health; the  
2 Commissioner of Mental Health; the Commissioner of Disabilities, Aging, and  
3 Independent Living; the Senate Committee on Health and Welfare; and the  
4 House Committee on Health Care. The report shall include an assessment of  
5 progress in implementing health information technology in Vermont and  
6 recommendations for additional funding and legislation required. In addition,  
7 VITL shall publish minutes of VITL meetings and any other relevant  
8 information on a public website. The provisions of 2 V.S.A. § 20(d)  
9 (expiration of required reports) shall not apply to the report to be made under  
10 this subsection.

11 (f) Funding authorization. VITL is authorized to seek matching funds to  
12 assist with carrying out the purposes of this section. In addition, it may accept  
13 any and all donations, gifts, and grants of money, equipment, supplies,  
14 materials, and services from the federal or any local government, or any  
15 agency thereof, and from any person, firm, foundation, or corporation for any  
16 of its purposes and functions under this section and may receive and use the  
17 same, subject to the terms, conditions, and regulations governing such  
18 donations, gifts, and grants. VITL shall not use any State funds for health care  
19 consumer advertising, marketing, or similar services unless necessary to  
20 comply with the terms of a contract or grant that requires a contribution of  
21 State funds.

1 (g) Waivers. The Secretary of ~~Administration~~ Human Services or  
2 designee, in consultation with VITL, may seek any waivers of federal law, of  
3 rule, or of regulation that might assist with implementation of this section.

4 (h) [Repealed.]

5 (i) Certification of meaningful use and connectivity.

6 (1) To the extent necessary to support Vermont's health care reform  
7 goals or as required by federal law, VITL shall be authorized to certify the  
8 meaningful use of health information technology and electronic health records  
9 by health care providers licensed in Vermont.

10 (2) VITL, in consultation with health care providers and health care  
11 facilities, shall establish criteria for creating or maintaining connectivity to the  
12 State's health information exchange network. VITL shall provide the criteria  
13 annually ~~by~~ on or before March 1 to the Green Mountain Care Board  
14 established pursuant to chapter 220 of this title.

15 (j) Scope of activities. VITL and any person who serves as a member,  
16 director, officer, or employee of VITL with or without compensation shall not  
17 be considered a health care provider as defined in subdivision 9432 of this title  
18 for purposes of any action taken in good faith pursuant to or in reliance upon  
19 provisions of this section relating to VITL's:

20 (1) governance;





1       Sec. 6. PROSPECTIVE REPEAL OF VITL STATUTE

2           In order to ensure successful implementation of the Act 73 report  
3       recommendations as set forth in the work plan developed pursuant to Sec. 1 of  
4       this act, and in the absence of 2019 legislative action to the contrary, 18 V.S.A.  
5       § 9352 is repealed on July 1, 2019.

6       Sec. 7. 32 V.S.A. § 10301 is amended to read:

7       § 10301. HEALTH IT-FUND

8           (a) The Vermont Health IT-Fund is established in the State Treasury as a  
9       special fund to be a source of funding for Medical Health Care Information  
10      Technology Programs and initiatives such as those outlined in the Vermont  
11      Health Information Technology Plan administered by the ~~Secretary of~~  
12      ~~Administration or designee~~ Department of Vermont Health Access. One  
13      hundred percent of the Fund shall be disbursed for the advancement of health  
14      information technology adoption and utilization in Vermont as appropriated by  
15      the General Assembly, less any disbursements relating to the administration of  
16      the Fund. The Fund shall be used for loans and grants to health care providers  
17      pursuant to section 10302 of this chapter and for the development of programs  
18      and initiatives sponsored by ~~VITL~~ and State entities designed to promote and  
19      improve health care information technology, including:



1 Green Mountain Care Board, including a year-end report ~~by~~ on or before  
2 August 1.

3 (i) Any primary care practitioner receiving an electronic health information  
4 system; or practice management system, or both, pursuant to subdivision (a)(1)  
5 of this section shall maximize usage of such system ~~in accordance with the~~  
6 ~~guidelines developed by VITL~~. A practitioner who is determined ~~by VITL~~ to  
7 be using the system to less than its full capacity shall be provided with an  
8 opportunity for additional instruction as needed to enable full usage of the  
9 system. If a practitioner is unwilling or unable to utilize the system to its full  
10 capacity, such practitioner shall refund to ~~VITL~~ the State the fair market value  
11 of the system.

12 Sec. 8. EFFECTIVE DATES

13 (a) Secs. 1–6 and this section shall take effect on passage.

14 (b) Sec. 7 (32 V.S.A. § 10301) shall take effect on July 1, 2019, but only if  
15 the repeal of 18 V.S.A. § 9352 occurs as set forth in Sec. 6.